IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7408 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHARI GRAM PANCHAYAT

Versus

KIRAN HIRALAL RUPARELIA

Appearance:

M/S THAKKAR ASSOC. for Petitioner No. 1

NANAVATY ADVOCATES for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 04/07/2001

C.A.V. JUDGEMENT

This Special Civil Application is filed by Dhari Gram Panchayat against an order passed in Recovery Application No.391 of 1993 (new Recovery Application No.124 of 1998) and Recovery Application No.87 of 1994 (new Recovery Application No.201 of 1998) dated 8.3.2000, whereby the learned Labour Judge, Amreli ordered to pay

difference of pay for the period from 27.3.1987 to 30.4.1993 to the tune of Rs.87,600/-, and to pay a sum of Rs.5,000/-, towards two LTC blocks, and differential amount of bonus for four years to the tune of Rs.1,000/-, and for the period from 1.5.1993 to 30.6.1994 for 14 months, difference at the rate of Rs.1500/-, totalling to Rs.21,000/-, and Rs.750/-, for surrendering leave for the year 1994-- 95. A total sum of Rs.1,15,350/-, was ordered to be paid to the respondent workman along with cost of Rs.500/-.

2. It is the case of the petitioner Panchayat that the respondent workman was reverted from the post of Accountant to the post of Clerk as he was not appointed as per rules and regulations and was not possessing requisite qualification also. The workman challenged the said order of reversion by filing Revision Application No.151 of 1989 before the Development Commissioner, who had partly allowed the Revision Application and remanded the matter to the District Development Officer. The District Development Officer once again passed an order dated 30.3.1993 cancelling the orders of appointment of the respondent workman made under Resolution No.136 dated 13.1.1983 and Resolution No.19 dated 6.5.1983. He ordered that appointment made under Resolution No.162 dated 15.2.1983 is cancelled with effect from the same date and that the Panchayat shall give promotion to the post of "Accountant-- cum-- Head Clerk" in accordance with law.

3. This order was challenged by the respondent workman by filing Special Civil Application No.7106 of 1996 which is heard and decided by judgement and order dated 14.6.2001. The petition is dismissed. In view of that the judgement and order passed by the Labour Court in the aforesaid Recovery Applications do not survive. When the challenge of the respondent workman to the order cancelling his appointment has failed, the respondent workman cannot get any consequential relief. It is the case of the petitioner Panchayat that at no stage there was any order directing the petitioner Panchayat to give the respondent workman the work of accountant and pay salary of the post of accountant. Therefore, the respondent workman was not given either appointment as accountant or the work of accountant. It is also case of the petitioner Panchayat that the respondent workman was reverted and thereafter the learned Civil Judge (Senior Division) on 17.12.1990 directed the petitioner Panchayat that promotion should be given only as per seniority in the suit filed by one Keshavbhai Ravjibhai Chodvadia, wherein the respondent workman was

also a party. As the challenge of the respondent workman to the impugned order has failed in Special Civil Application No.7106 of 1996, the judgement and order of the Labour Court are required to be quashed and set aside and they are accordingly quashed.

4. The petition is allowed. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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